



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

DCP/JPM/JPL/GMM  
F. #2012R01716

*271 Cadman Plaza East  
Brooklyn, New York 11201*

June 26, 2018

By Hand Delivery and ECF

Ronald G. White, Esq.  
Morrison & Foerster LLP  
250 West 55th Street  
New York, NY 10019

Barry H. Berke, Esq.  
Paul Schoeman, Esq.  
Kramer Levin Naftalis & Frankel LLP  
1177 Avenue Of The Americas  
New York, NY 10036

Re: United States v. Michael Leslie Cohen  
Criminal Docket No. 17-544 (NGG)

Dear Counsel:

Enclosed please find the government's discovery in accordance with Rule 16 of the Federal Rules of Criminal Procedure. The government also requests reciprocal discovery from the defendant.

I. The Government's Discovery

Enclosed please find:

A. Statements of the Defendant

- Federal Bureau of Investigation ("FBI") FD-302 Report of proffer interview of the defendant on April 4, 2013, Bates numbered DOJ\_ROI-000001 through DOJ\_ROI-000013;
- FBI FD-302 Report of proffer interview of the defendant on May 30, 2013, Bates numbered DOJ\_ROI-000014 through DOJ\_ROI-000027;
- FBI FD-302 Report of statements made by the defendant to representatives of Gibson Dunn & Crutcher LLP and Richards Kibbe & Orbe LLP on

February 5, 2011, October 31, 2011, and April 23, 2012, Bates numbered DOJ\_ROI-000028 through DOJ\_ROI-000044; and

- FBI FD-302 Report of statements made by Ronald White on behalf of the defendant on June 3, 2013, Bates numbered DOJ\_ROI-000045 through DOJ\_ROI-000046.

B. Documents and Tangible Objects

Among other materials, the government anticipates providing to the defendant all documents in its possession that were produced by Och-Ziff Capital Management Group LLC (“Och-Ziff”) and for which the defendant was designated as the custodian. This production includes the first set of such materials. Specifically, enclosed at the Bates range DOJ\_MC-0000000001 through DOJ\_MC-0003557670 are 224,003 documents produced by Och-Ziff to the government. The enclosed documents originally were given Bates numbering by Och-Ziff that started with the prefix “OZC.” The documents enclosed in this production are from the Och-Ziff Bates range of OZC11010804 and OZC19431417.

At the time Och-Ziff provided the documents now designated DOJ\_MC-0000000001 through DOJ\_MC-0003557670 to the government, it provided the following descriptions for certain of the Bates ranges:

- OZC11010804 through OZC12048266 (DOJ\_MC-0000000001 through DOJ\_MC-0001037453): non-privileged Bloomberg messages and SMS messages of Michael Cohen for time period January 2007 through June 2008;
- OZC12048267 through OZC12221899 (DOJ\_MC-0001037454 through DOJ\_MC-0001097373): Documents regarding the Libyan Investment Authority (“LIA”) and Magna;
- OZC12221901 through OZC12230157 (DOJ\_MC-0001097374 through DOJ\_MC-0001097464): Document sets relating to Niger Mining Services;
- OZC12230158 through OZC12235281 (DOJ\_MC-0001097465 through DOJ\_MC-0001097836): Document sets relating to Camrose;
- OZC12235282 through OZC16936617 (DOJ\_MC-0001097837 through DOJ\_MC-0001097850): Documents responsive to then-outstanding government or U.S. Securities Exchange Commission (“SEC”) requests;
- OZC16936618 through OZC16937081 (DOJ\_MC-0001097851 through DOJ\_MC-0001098313): Bloomberg messages sent and received by Michael Cohen;
- OZC16947575 through OZC19225924 (DOJ\_MC-0001098341 through DOJ\_MC-0003373647): Email, Bloomberg, and SMS messages of Michael Cohen from January 2007 to June 2008 that had been initially segregated as presumptively privileged;
- OZC19225925 through OZC19316455 (DOJ\_MC-0003373648 through DOJ\_MC-0003443237): Documents responsive to specific government and SEC requests;

- OZC19316456 through OZC19349691 (DOJ\_MC-0003443238 through DOJ\_MC-0003475945): Documents related to Michael Cohen and Libya that had been initially coded as privileged or produced in redacted form;
- OZC19349692 through OZC19349693 (DOJ\_MC-0003475946 through DOJ\_MC-0003475947): Documents responsive to specific government and SEC requests; and
- OZC19349694 through OZC19469129 (DOJ\_MC-0003475948 through DOJ\_MC-0003557670): Michael Cohen communications responsive to DOJ search terms.

You may examine the physical evidence discoverable under Rule 16, including original documents, by calling me to arrange a mutually convenient time.

C. Reports of Examinations and Tests

The government will provide you with copies of any additional reports of examinations or tests in this case as they become available.

D. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703 and 705 and notify you in a timely fashion of any expert that the government intends to call at trial and provide you with a summary of the expert's opinion.

The identity, qualifications, and bases for the conclusions of each expert will be provided to you when they become available.

E. Brady Material

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

F. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Fed. R. Evid. 404(b).

## II. The Defendant's Required Disclosures

The government hereby requests reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, data, photographs, tapes, tangible objects, or copies or portions thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely upon at trial, or that were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid unnecessary delays, the government requests that the defendant have copies of those statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony that the defendant intends to use as evidence at trial under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for the opinions, and the qualification of the witnesses.

Pursuant to Fed. R. Crim. P. 12.3, the government hereby demands written notice of the defendant's intention, if any, to claim a defense of actual or believed exercise of public authority, and also demands the names and addresses of the witnesses upon whom the defendant intends to rely in establishing the defense identified in any such notice.

## III. Future Discussions

If you have any questions or requests regarding further discovery or a disposition of this matter, please do not hesitate to contact me.

Please be advised that, pursuant to the policy of the Office concerning plea offers and negotiations, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, any discussion regarding the pretrial disposition of a matter that is not reduced to writing and signed by authorized representatives of the Office cannot and does not constitute a “formal offer” or a “plea offer,” as those terms are used in Lafler v. Cooper, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 132 S. Ct. 1399 (2012).

Very truly yours,

RICHARD P. DONOGHUE  
United States Attorney

By: /s/ James P. McDonald  
James P. McDonald  
Assistant U.S. Attorney  
(718) 254-6376

Enclosures

cc: Clerk of the Court (NGG) (by ECF) (without enclosures)